

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BOBBY RAY WATSON	§	
v.	§	CIVIL ACTION NO. 6:11cv138
WARDEN MILLER	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Bobby Ray Watson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On March 30, 2011, the Magistrate Judge ordered that Watson pay the filing fee of \$350.00 or file a certified *in forma pauperis* data sheet, as required by 28 U.S.C. §1915(b). Watson did not comply with this order.

On May 17, 2011, the Magistrate Judge issued a Report noting that Watson's failure to comply with this order rendered his lawsuit amenable to dismissal for failure to prosecute or to obey an order of the Court, as set out in Rule 41(b), Fed. R. Civ. P. However, the Magistrate Judge said, Watson's lawsuit suffered from a more fundamental flaw. Watson was confined at the Gurney Unit at the time that he filed his lawsuit, and sought only injunctive relief to the effect that he be moved to general population. After the case was filed, however, Watson was moved to the Stevenson Unit, in Cuero, DeWitt County, Texas. The Magistrate Judge therefore concluded that Watson's claim for injunctive relief was moot, and recommended that the lawsuit be dismissed on this basis.

Watson received a copy of the Magistrate Judge's Report on or before June 3, 2011, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).


The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 7) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED as moot. This dismissal is without prejudice to any claims which Watson may raise concerning the conditions of confinement at the Stevenson Unit. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 11th day of July, 2011.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE